

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEKEVIOUS RILEY,

Defendant.

4:22-CR-3061

ORDER

This matter is before the Court on correspondence from the defendant that has been filed as a motion for copies ([filing 42](#)). The Court will deny the defendant's motion. The defendant does not have the right to receive copies of documents without payment, even if he is indigent (which, the Court notes, he neither alleged nor proved). See [28 U.S.C. § 1915](#); *Lewis v. Precision Optics, Inc.*, [612 F.2d 1074, 1075 \(8th Cir. 1980\)](#). And the defendant does not explain why he needs the copies, other than "use in the perfecting of [his] Appeal."

In addition, the defendant requests a transcript of sentencing, but no such transcript was prepared. An indigent defendant bringing a postconviction proceeding under [28 U.S.C. § 2255](#) may have a transcript prepared at the government's expense, if the suit is not frivolous *and* the transcript is needed to decide the issue presented. [28 U.S.C. § 753](#). But any request for a free transcript prior to the filing of a § 2255 motion is premature. *Chapman v. United States*, [55 F.3d 390, 390-91 \(8th Cir. 1995\)](#). And the defendant has not filed such a motion.

The defendant may, if he files a § 2255 motion, move for a sentencing transcript to be prepared pursuant to § 753, and the Court will at that time consider whether or not his motion is frivolous and whether the transcript is necessary. Alternatively, the defendant can pay for a transcript to be prepared.

The Court will direct the Clerk's Office to provide the defendant with a copy of a request for transcript form, which the defendant may complete and return. The defendant's sentencing hearing was recorded by a court reporter, so if the defendant returns the request for transcript form, the court reporter will contact the defendant to arrange for payment of the fee.

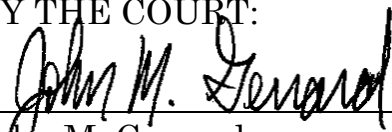
The defendant may also pay the Clerk of the Court for copies of other documents at the established rate of 50¢ per page. But two of the documents he has requested—a "police report" and "arrest statement"—aren't in the Court's possession. The other documents he has requested—the plea agreement (6 pages), docket sheet (6 pages), and presentence report (17 pages)—total 29 pages for a cost of \$14.50, which must be prepaid when the copies are requested.¹ Accordingly,

IT IS ORDERED:

1. The defendant's motion for copies ([filing 42](#)) is denied.
2. The Clerk of the Court is directed to provide the defendant with a copy of this order and a request for transcript form

Dated this 24th day of May, 3023.

BY THE COURT:



John M. Gerrard
Senior United States District Judge

¹ The Court notes, however, that the presentence report has been filed under seal, because it contains personal information about the defendant and others, so the Court may require the defendant to make some showing of why he needs it in order to release it to him.